

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

PUBLIC SERVICES – Prohibition and Excise Department – Request of Sri Sk. Khaja Mohiddin, Prohibition & Excise Inspector, Podili, Prakasam District of Guntur Division for declaration of probation within the normal period in the cadre of Prohibition & Excise Inspector by relaxing Rule 16 (h) of Andhra Pradesh State and Subordinate Services Rules, 1996 – Orders of the High Court in WP No.8730/2020, dt.04.09.2020 and Contempt Case No.197/2022 – Relaxed – Orders – Issued.

REVENUE (EXCISE) DEPARTMENT

G.O.Ms.No. 549

Date: 26.07.2022

Read the following:-

1. From the Hon'ble High Court orders in WP No.8730/2020 filed by Sri Sk. Khaja Mohiddin, Prohibition & Excise Inspector, dt.04.09.2020.
2. Representation of Sri Sk. Khaja Mohiddin, Prohibition & Excise Inspector, dated:03.01.2020
3. Contempt Case No.197/2022 dated 04.02.2022 filed by Sri Sk.Khaja Mohiddin, P&E Inspector.
4. From the Commissioner of Prohibition & Excise, A.P., Lr. Cr.No. 12027/16/2018/CPE/B4, Dated 15.02.2022.

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ORDER:

Sri Sk. Khaja Mohiddin was appointed as Prohibition & Excise Inspector by APPSC through Direct recruitment and allotted to Guntur Division and he joined on 02.11.1996. He was placed on probation for a period of two years within a continuous period of three years from the date of joining to duty. He has to pass the prescribed Departmental Tests within the Probation period. The continuous duty period of three years expired by 01.11.1999 since the individual joined on 02.11.1996. But he did not pass Departmental Tests within the period of probation and not even after completion of 14 years of service. Therefore, Sri SK. Khaja Mohiddin, Proh. & Excise Inspector, Kanigiri of Guntur Division was discharged from service under Rule 16 (f) (i) of A.P. State and Sub-ordinate Service Rules, 1996 vide the Proceedings No.242/2010/A1, dt.29.12.2010 of the Deputy Commissioner, Guntur.

2. Aggrieved by the above orders, the individual has filed an appeal dt.10.01.2011 before the Commissioner of Prohibition & Excise stating that he does not know the stipulated condition of passing departmental tests for continuation in service. After knowing, he has appeared for the departmental tests A, B & Executive Officers Tests in the month of May 2010 and passed. Later he appeared for C&D Tests and Accounts Tests for Subordinate Officers Part-I and II Tests held in the month of December 2010 and that he has been in service for the last (14) years and discharging him from service at this stage will deprive him of his livelihood and his dependents. The Commissioner of Prohibition & Excise has submitted a report vide his letter dated 28.02.2011 and after examining the same, Govt. have observed that discharging the individual from service would cause distress to his dependents and decided to uphold the appeal of the individual on humanitarian grounds and accordingly set aside the order of the Deputy Commissioner, Guntur dt 29.12.2010 and given time upto 31.12.2011 to pass the Departmental tests and requested the Commissioner of Prohibition & Excise to admit the individual and post him to Kanigiri, Prakasam itself from where he was discharged from service. The period spent out of service shall be treated as NOT ON DUTY. It can however be regularized as leave due to the individual at the time of his discharge from service, in case he opts for the same, vide Govt. Memo No.57008/Ex.I(2)/2010-4, Dt 07.04.2011.

P.T.O.

3. The Commissioner of Prohibition & Excise in his letter No.Cr.No.16696/2010/CPE/L3.B4, dated 13.05.2015 has requested to extend the probation of Sri SK. Khaja Mohiddin, Proh. & Excise Inspector upto 15.07.2011 i.e., date of last test passed and deemed to have declared his probation w.e.f.15.07.2009 i.e., two years anterior from the date on which he passed the last departmental test i.e., "Account Test for Subordinate Officers-II" as per rule 16 (h) of APSSS Rules, 1996. After examining the above said proposal, in consultation with the General Administration (Ser.D) Department and after obtaining orders in circulation to the then Hon'ble Minister (P&E), Government have decided to extend the probation of Sri SK. Khaja Mohiddin, Proh. & Excise Inspector upto the date of passing of last departmental test i.e. Accounts Test for Subordinate Officers Part-II after inclusion of the period spent out of service i.e, from 29.12.2010 to 30.04.2011 (123 days) which was regularized as 'not on duty' which falls in between prescribed period of probation and accordingly extended the probation of probation upto 14.11.2011 and the individual is deemed to have commenced probation w.e.f. 15.11.2009 (i.e., two years anterior from the date on which he passed the last test) under Rule 16 (h) of AP State and Subordinate Service Rules, 1996, vide GO Ms.No.80, Rev. (Ex.I) Dept, dated 22.02.2016.

4. Sri Sk.Khaja Mohiddin, Proh. & Excise Inspector has filed WP No.8730/2020 praying to declare the action of respondents in not considering his request to relax Rule 16(h) of AP State and Subordinate Service Rules, 1996 in his favour while considering the case of similarly situated persons recruited along with him of the same batch vide G.O.Ms.Nos.105, 106 & 107, dt 16.02.2013, G.O.Ms.No.135, Dt 02.03.2018, G.O.Ms.Nos.241, 242 and 243, Dt 13.03.2019 is illegal, besides being contrary to the law of Supreme Court in CA No.9856-9860 of 2016 and C.A. No.795 of 2017 dated 23.01.2017 and direct the respondents to extend the benefit of Rule 16 (h) of AP State and Subordinate Service Rules, 1996 in his favour. The Hon'ble High Court in their orders dated 04.09.2020 in the said WP has ordered as follows:-

"This Court is conscious that no such direction be issued in view of the Apex Court in the Government of India V.P. Venkatesh, wherein the Apex Court held that such orders may make for quick or easy disposal of cases in overburdened adjudicatory instructions. But they do not serve to the cause of justice. As the learned counsel for the petitioner himself requested to issue a direction to dispose of the representation Dt. 03.01.2020 submitted by the petitioner, I find no other alternative except to issue such direction.

In the result, W.P is disposed of, directing the respondent authorities to dispose of the representation submitted by the petitioner dated 03.01.2020, in accordance with the law, within two (02) months from today. No costs."

5. The individual has filed Contempt Case No.197/2022 in WP No.8730/2020 and the Hon'ble High Court have issued notice that as to why should not be admitted, either appearing in person or through Advocate, duly instructed on 04.03.2022 to which date the case stands posted for hearing failing wherein the same case will be heard and determined ex-parte.

6. After careful examination of the matter, in supersession of orders issued in GO Ms.No.80, Rev (Ex.I) Dept, dated 22.02.2016, Government hereby relax Rule 16 (h) of A.P. State & Subordinate Service Rules, 1996 in favour of Sri Sk. Khaja Mohiddin, Prohibition & Excise Inspector, Podili, Prakasam District of Guntur Division on par with similarly situated persons and to treat the seniority of the

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applicant as per the ranking assigned by the APPSC in the cadre of Prohibition & Excise Inspector; subject to outcome of W.P.No.8730/2020 and Contempt Case No.197/2022.

7. The Commissioner of Prohibition and Excise, A.P., shall take necessary further action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**Dr. RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT**

To

The Commissioner of Prohibition & Excise, A.P.,
RS.No.8-82B, Sai Vihar Apartments,
Poultry Farm Road, Prasadampadu(Village),
Vijayawada (Rural Mandal), Krishna District.

Sri Sk. Khaja Mohiddin, Prohibition & Excise Inspector, Podili, Prakasam District of
Guntur Division **(through the CPE., AP.)**

Copy:

The PS to Spl.C.S. to Chief Minister.

The PS to Deputy Chief Minister (Excise).

The Government Pleader for Service-I, High Court of A.P., Nelapadu.

The PS to Spl.C.S to Government, Revenue (P&E and R&S) Department.

Sf/Sc.

//FORWARDED::BY ORDER //


SECTION OFFICER.